



THE REGULATORY ENVIRONMENT IN THE BVI

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1. Introduction

Ladies and gentlemen, it is a great pleasure and an honour for me to be here today. The development of the financial services sector in Dubai is most impressive. I much appreciate this opportunity not only to share with you what we in the BVI do but to learn from your success.

From the very start, I have noted the importance that the DIFC and the DFSA place on maintaining independent and principled regulation. This has been music to my ears.

I firmly believe that the long-term competitiveness of the financial sectors of Dubai and the British Virgin Islands alike depends on our maintaining a strong and independent regulatory regime which ensures that our industries operate to international standards.

Ladies and gentlemen, financial institutions of integrity will no longer tolerate regulatory environments that expose them to reputational risk. These days more than ever, for a jurisdiction to win good, legitimate long-term business depends on their having a good international reputation, which in turn depends on their putting good regulation in place.

Or to put it another way, good regulation means good reputation means good business.

I would like to use my presentation to deepen your understanding of the BVI’s approach to regulation and of the benefits this approach brings for those who use us.

2. The BVI Financial Services Commission – an independent regulator

The first point is to make it clear that, although I am here with colleagues from the BVI government, the BVI Financial Services Commission (which I will refer to as the FSC or the Commission) is an independent regulatory body and not part of the government. Since 2001, we have been an autonomous authority tasked both with regulating the BVI financial services industry and with fostering the industry's healthy development.

Our regulatory remit covers insurance, banking, trustee businesses, company management and mutual funds businesses, as well as insolvency practitioners, money transmitting agencies and other non-banking financial intermediaries. We also administer the registration of companies, limited partnerships and intellectual property.

Furthermore, the Commission assists other relevant BVI authorities with the prevention and detection of financial crime. For example, we work closely with the BVI's Financial Investigations Unit on combating money laundering and the financing of terrorism.

And we take very seriously our duty to advise government and the general public on financial services matters in general.

We believe in doing everything that is necessary to meet international standards and to safeguard the reputation of the BVI as a situs for legitimate cross-border financial services business without compromising its international competitiveness.

To this end, the Commission works hard at creating a genuine partnership of mutual trust between the private sector and the government so as to ensure the right environment for legitimate business.

We believe one of the most effective mechanisms for any regulator lies at the authorisation stage. Accordingly, only organisations who satisfy our criteria of fitness and propriety – that is, who have a proven track record and an unblemished reputation – are authorised to undertake financial services business in, or from within, the BVI.

3. The BVI's approach to regulation

Turning to the Commission's approach to regulation, one way of understanding this is to see it as based on three building blocks, those of **pragmatism, consultation** and **investment**.

By **pragmatism**, I mean that we operate a commonsense regime with a light touch – or perhaps I should say a right touch. We do not believe in regulation for its own sake. On the contrary, we believe that too much regulation – or over-regulation – produces unnecessary bureaucratic burdens, stifles innovation, hampers success and destroys business.

However, we also believe that too weak – or inadequate – regulation risks leading to avoidable failures and creating a lack of confidence, and thus also destroys business.

A balanced, differentiated and risk-focused approach is therefore necessary.

This means that the Commission focuses its supervisory resources on those firms and activities which pose the greatest reputational risk to the jurisdiction. Our risk-based model is fashioned around the principles of self-regulation, market discipline and official oversight.

Our emphasis has shifted from strict, one-size-fits-all rules to a greater emphasis on supervision in order to ensure sound internal controls and risk management systems. We have moved from off-site inspection of documentary evidence to on-site compliance inspections.

Our approach is thus not overly prescriptive but seeks pragmatically to set the parameters of what is acceptable and what is not.

That brings me to our second building block of **consultation**. For our principles of self-regulation, market discipline and official oversight to operate effectively, a common understanding among all players is needed.

By maintaining a dialogue and building a consensus with the private sector and the government, the Commission remains alert at all times to the effects of our actions on those we regulate.

We continue to benchmark and enhance our processes against regulators in other leading finance centres to ensure that the BVI maintains a balanced, proportionate and competitive regulatory regime.

We have set up a range of consultative committees with the private sector and the government and we rely intensively on their input to help shape our policies, programmes and practices.

As of now, we have committees working hard on industry liaison, mutual funds, insolvency, insurance, banking, anti-money laundering and control of terrorist financing, and company registration and corporate law matters. A new consultative group on intellectual property is expected to be launched shortly.

We also consult widely with our overseas counterparts. We have entered into memoranda of understanding with a number of regulators in major centres, and we are active members of numerous international regulatory groupings.

We also welcome every opportunity for discussion with users and potential users overseas, in fora such as this.

This consultative and collaborative approach helps the FSC to sustain international and domestic confidence in our institutions and products, and it enables the market to grow and innovate. It ensures that the BVI evolves effectively and organically and remains a relevant financial services centre.

For example, it ensured the successful renewal of our corporate legislation to maintain the BVI as the gold standard for company incorporation. By replacing our long-standing IBC Act with a world-leading Business Companies Act, we cemented the BVI's position as the number one international corporate domicile.

Our consultative approach also led to the fulfilment of a long-standing need for the BVI to put in place a truly efficient and effective private trust regime. Our innovative solution enables the BVI to grant exemption from regulation to qualifying family trusts and unremunerated trust businesses.

Also through consultation and partnership, we developed a market-leading, online company registration system known as VIRRGIN, which stands for Virtual Integrated Regulatory and Registry Information Network. This enables our clients to have 24/7 access to the registry for company formation matters.

Finally, only last month, our partnership approach led to further enhancement of our anti-money laundering regime, with new procedures for identification, recording and reporting of transactions, and the enactment of a detailed anti-money laundering and anti-terrorist financing Code of Practice.

This new Code of Practice will serve as a practical tool for practitioners to comply with international standards. It represents just one of the many positive and forward-looking steps that the BVI regulator, government and private sector, working together, have taken to deter and confront financial crime.

So, ladies and gentlemen, we are pragmatic and we are consultative. And that brings me to **investment**, the third building block of our approach.

By investment, I mean that we invest in the Financial Services Commission itself so that we are fully resourced financially and operationally for the tasks at hand. And I mean, too, that we ensure appropriate investment by our regulated sector in meeting the requisite legislative requirements and international standards.

Within the Commission, our starting point lies in ensuring that we have all the requisite, highly-qualified staff to fulfil our statutory remit in its entirety.

As our remit has grown, so have our employee numbers, which now stand at almost 130. Only last November, the United Kingdom's National Audit Office praised us for considerably increasing our professional headcount over the past eight years.

We have introduced the new technology and systems we need to regulate efficiently, and we evaluate our operations continuously and upgrade as required.

We also ensure at all times that we maintain legislation with sufficient teeth to prevent and prosecute malfeasance. In doing so, we draw on external expertise as necessary.

Across the world, the regulatory function is constantly changing and the FSC is determined to sustain the resources needed to maintain its capacity to grow organically so that we can meet whatever demands come before us. I am sure this is equally the case in Dubai.

Both within the FSC itself and with our industry, we enunciate good practice and we champion a range of important objectives, including the following:

- The effective and appropriate training and development of staff;
- The recognition of the importance of professional qualifications;
- Industry-specific training needs;
- Career progression;
- Programmes and procedures to counter money laundering and the financing of terrorism;
- The proper handling of client complaints; and
- Disaster recovery planning.

Ladies and gentlemen, I hope this gives you some understanding that, although the BVI may be offshore in the sense that we are a group of islands not too far from the coast of the United States, in our across-the-board commitment to maintaining the right sort of regulation, to working in collaboration and to investing in attracting, retaining and developing the best professionals, we are resolutely onshore.

4. Good regulation equals good reputation

We are resolutely onshore, too, in our determination to engage fully with the international community, and I would like to say a little more about that.

I started my remarks by saying that, these days more than ever, good business depends on good reputation. No jurisdiction can any longer afford to ignore the international political and regulatory spotlight targeted on international financial centres.

The BVI has never done so. From the start, we have sought to engage actively with international initiatives, not to evade them. Our active and balanced response to meeting international concerns has ensured the BVI has never been on any international blacklist.

We will continue to do whatever is right and proper to avoid blacklisting without sacrificing our users' right to privacy.

We operate a robust statutory gateway regime for cross border co-operation. This means that we permit the exchange of information if requests pass a requisite “means test”. We neither facilitate fishing expeditions nor are a black hole for enquiries.

In this way we crack down on unethical behaviour such as white-collar crime, money laundering and terrorist financing while at the same time protecting the confidentiality of legitimate transactions.

The statutory mandates and regulations established in the BVI to foster and improve international cooperation and information exchange are clearly set out in extensive handbook that the FSC has published as a guide for law enforcement officials and regulators. This can be found on our website.

As part of our collaborative approach, as I mentioned, the FSC participates actively in international groupings, where we help to shape international standards.

For example, as part of a select working group within the Offshore Group of Banking Supervisors (OGBS), the BVI helped develop a statement of international best practice for the regulation of trust and corporate service providers.

We are also active in many other anti-money laundering and supervisory groupings, such as the Caribbean Financial Action Task Force (the CFATF) and the Egmont Group of Financial Intelligence Units. We were part of the working groups that revised the main FATF’s Forty Recommendations.

This active international engagement enables us to work together with our business community from an early stage to develop appropriate strategies to protect our industry.

It also means the international community is increasingly recognising the BVI’s determined commitment to international regulatory standards and best business practices.

As a result, we have enjoyed a long line of favourable assessments by KPMG, the UK’s Foreign & Commonwealth Office and National Audit Office, the FATF, the CFATF, the IMF and even the OECD.

I will not pretend that these independent reviews are not at times exhausting. But they provide a much-needed new perspective on our regulatory framework and market practices.

And we welcome the opportunity to have it confirmed that the BVI financial services sector is compliant with – and in some instances exceeds – the relevant international standards.

Last April, we were particularly pleased when the International Organisation of Securities Commissions (IOSCO) invited the BVI to become an ordinary member, alongside the likes of Singapore, Guernsey and the Isle of Man.

We were the first country to be admitted to ordinary membership based on changes made to our legislation and under the IOSCO Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information.

5. Good reputation equals good business

Ladies and gentlemen, such international endorsement simultaneously reflects and enhances the BVI's good reputation. And in turn, it helps ensure that our business community retains the space to develop and grow.

Indeed, the National Audit Office report that I just mentioned said (and I quote): *"In response to international pressure to comply with OECD and EU standards for sound business practices, the Government has made policy and legislative changes which have not driven business elsewhere"*.

Our practitioners have consistently shown themselves sophisticated and flexible enough to respond effectively to new international standards while still evolving their product and service offerings.

The figures speak for themselves. The latest statistics from the second quarter of 2007 reveal that the total number of BVI Business Companies now stands at more than 800,000, while the number of BVI-registered funds stands at more than 1,500 professional funds, nearly 900 private funds and more than 200 public funds.

Furthermore, only this month, the BVI's status as a leading and competitive global finance centre was confirmed by practitioners from across the world, when the British Virgin Islands was included for the first time in the Global Financial Centres Index published by the City of London.

The index is based on nearly 19,000 assessments from business professionals worldwide, and the BVI entered in 27th place among 69 centres, directly after Gibraltar, the Cayman Islands and Dubai respectively. Practitioners also placed the BVI among the most stable finance centres, just behind jurisdictions such as Zurich, Hong Kong and the Isle of Man.

6. Conclusion

Ladies and gentlemen, I trust that all this has given you a good feeling for how the BVI approaches the important business of financial services regulation.

The Financial Service Commission's pragmatic approach, our ongoing and genuine partnership with industry and government, and our determination to invest the resources needed... all these ensure that the BVI's legislative framework and policies remain current and proportionate, and that the BVI continues to provide legitimate and market-driven solutions to international needs.

I thank you for your kind attention.